

Assembly Bill No. 583

CHAPTER 1003

An act to amend Sections 16602 and 17900 of the Business and Professions Code, to amend Section 15722 of, to amend and repeal Section 15002 of, to add Chapter 5 (commencing with Section 16100) to, and to repeal Chapter 1 (commencing with Section 15001) of, Title 2 of, the Corporations Code, to amend Section 3940 of the Public Resources Code, and to amend Sections 6829 and 23097 of, to add Sections 6831, 9032, 30353, 32388, 38576, 43447, 45608, 46463, 50138.5, 55208, and 60492 to, and to add Article 4 (commencing with Section 40166) to Chapter 6 of Part 19 of, and Article 4 (commencing with Section 41127.5) to Chapter 6 of Part 20 of, Division 2 of, the Revenue and Taxation Code, relating to partnerships.

[Approved by Governor September 27, 1996. Filed
with Secretary of State September 29, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 583, Sher. Uniform Partnership Act of 1994.

Under existing law, partnerships are governed by the Uniform Partnership Act.

This bill would enact the Uniform Partnership Act of 1994, as specified, that would apply to partnerships formed on or after January 1, 1997.

This bill would provide that partnerships formed before January 1, 1997, are governed by the Uniform Partnership Act until January 1, 1999, except as specified. This bill would make certain conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 16602 of the Business and Professions Code is amended to read:

16602. (a) Any partner may, upon or in anticipation of any of the circumstances described in subdivision (b), agree that he or she will not carry on a similar business within a specified county or counties, city or cities, or a part thereof, where the partnership business has been transacted, so long as any other member of the partnership, or any person deriving title to the business or its goodwill from any such other member of the partnership, carries on a like business therein.

(b) Subdivision (a) applies to any of the following circumstances:

- (1) A dissolution of the partnership.
- (2) Dissociation of the partner from the partnership.

(3) A sale or other disposition of the partner's interest in a partnership.

SEC. 1.1. Section 17900 of the Business and Professions Code is amended to read:

17900. (a) As used in this chapter, "fictitious business name" means:

(1) In the case of an individual, a name that does not include the surname of the individual or a name that suggests the existence of additional owners.

(2) In the case of a partnership or other association of persons, other than a limited partnership that has filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 of the Corporations Code, a foreign limited partnership that has filed an application for registration with the Secretary of State pursuant to Section 15692 of the Corporations Code, a registered limited liability partnership that has filed a registration pursuant to Section 15049 or 16953 of the Corporations Code, or a foreign limited liability partnership that has filed an application for registration pursuant to Section 15055 or 16959 of the Corporations Code, a name that does not include the surname of each general partner or a name that suggests the existence of additional owners.

(3) In the case of a corporation, any name other than the corporate name stated in its articles of incorporation.

(4) In the case of a limited partnership that has filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 of the Corporations Code and in the case of a foreign limited partnership that has filed an application for registration with the Secretary of State pursuant to Section 15692 of the Corporations Code, any name other than the name of the limited partnership as on file with the Secretary of State.

(5) In the case of a limited liability company, any name other than the name stated in its articles of organization and in the case of a foreign limited liability company that has filed an application for registration with the Secretary of State pursuant to Section 17451 of the Corporations Code, any name other than the name of the limited liability company as on file with the Secretary of State.

(b) A name that suggests the existence of additional owners within the meaning of subdivision (a) is one which includes such words as "Company," "& Company," "& Son," "& Sons," "& Associates," "Brothers," and the like, but not words that merely describe the business being conducted.

SEC. 1.2. Chapter 1 (commencing with Section 15001) of Title 2 of the Corporations Code is repealed.

SEC. 1.3. Section 15002 of the Corporations Code is amended to read:

15002. As used in this act:

(a) “Court” includes every court and judge having jurisdiction in the case.

(b) “Business” includes every trade, occupation, or profession.

(c) “Person” includes individuals, partnerships, limited liability partnerships, limited partnerships, corporations, limited liability companies, and other associations.

(d) “Bankrupt” includes a debtor under Chapter 7 of the federal bankruptcy law or an insolvent under any state insolvency act.

(e) “Conveyance” includes every assignment, lease, mortgage, or encumbrance.

(f) “Real property” includes land and any interest or estate in land.

(g) “Professional limited liability partnership services” means the practice of public accountancy or the practice of law.

(h) “Licensed person” means any person who is duly licensed, authorized, or registered under the provisions of the Business and Professions Code to provide professional limited liability partnership services or who is lawfully able to render professional limited liability partnership services in this state.

(i) (1) “Registered limited liability partnership” means a partnership, other than a limited partnership, formed pursuant to an agreement governed by Article 8 (commencing with Section 15047) or Article 10 (commencing with Section 16951), that is registered under Section 15049 or Section 16953 and (A) each of the partners of which is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (B) is licensed under the laws of the state to engage in the practice of public accountancy or the practice of law, or (C) (i) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar, practices law or is related to a foreign limited liability partnership and (ii) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(2) For the purposes of subparagraph (C) of paragraph (1), a partnership is related to a registered limited liability partnership or foreign limited liability partnership (A) if at least a majority of the partners in one partnership are also partners in the other partnership, (B) if at least a majority in interest in each partnership, hold interests in or are members of another person, other than an individual, and each partnership renders services pursuant to an agreement with that other person, or (C) if one partnership, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

(j) (1) “Foreign limited liability partnership” means a partnership, other than a limited partnership, formed pursuant to an agreement governed by the laws of another jurisdiction and denominated or registered as a limited liability partnership or registered limited liability partnership under the laws of that jurisdiction (A) in which each partner is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (B) is licensed under the laws of the state to engage in the practice of public accountancy or the practice of law, or (C) (i) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by this State Bar, practices law or is related to a foreign limited liability partnership and (ii) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(2) For the purposes of subparagraph (C) of paragraph (1), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (A) at least a majority of the partners in one partnership are also partners in the other partnership, or (B) at least a majority in interest in each partnership, hold interests or are members in another person, except an individual, and each renders services pursuant to an agreement with that other person, or (C) one partnership, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

(k) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 1.5. Section 15722 of the Corporations Code is amended to read:

15722. In any case not provided for in this chapter, limited partnerships shall be governed in the same manner as general partnerships would be governed pursuant to Section 16111, by the Uniform Partnership Act (Chapter 1 (commencing with Section 15001)), or the Uniform Partnership Act of 1994 (Chapter 5 (commencing with Section 16100)).

SEC. 2. Chapter 5 (commencing with Section 16100) is added to Title 2 of the Corporations Code, to read:

CHAPTER 5. UNIFORM PARTNERSHIP ACT OF 1994

Article 1. General Provisions

16100. This chapter may be cited as the Uniform Partnership Act of 1994.



16101. As used in this chapter, the following terms and phrases have the following meanings:

(1) “Business” includes every trade, occupation, and profession.

(2) “Debtor in bankruptcy” means a person who is the subject of either of the following:

(A) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application.

(B) A comparable order under federal, state, or foreign law governing insolvency.

(3) “Distribution” means a transfer of money or other property from a partnership to a partner in the partner’s capacity as a partner or to the partner’s transferee.

(4) (A) “Foreign limited liability partnership” means a partnership, other than a limited partnership, formed pursuant to an agreement governed by the laws of another jurisdiction and denominated or registered as a limited liability partnership or registered limited liability partnership under the laws of that jurisdiction (i) in which each partner is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) which is licensed under the laws of the state to engage in the practice of public accountancy or the practice of law, or (iii) which (I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by this State Bar, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(B) For the purposes of clause (iii) of subparagraph (A), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (i) at least a majority of the partners in one partnership are also partners in the other partnership, or (ii) at least a majority in interest in each partnership hold interests in or are members of another person, except an individual, and each partnership renders services pursuant to an agreement with that other person, or (iii) one partnership, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

(5) “Licensed person” means any person who is duly licensed, authorized, or registered under the provisions of the Business and Professions Code to provide professional limited liability partnership services or who is lawfully able to render professional limited liability partnership services in this state.

(6) (A) “Registered limited liability partnership” means a partnership, other than a limited partnership, formed pursuant to an agreement governed by Article 10 (commencing with Section 16951), that is registered under Section 16953 and (i) each of the partners of which is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) is licensed under the laws of the state to engage in the practice of public accountancy or the practice of law, or (iii)(I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

(B) For the purposes of clause (iii) of subparagraph (A), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (i) at least a majority of the partners in one partnership are also partners in the other partnership, or (ii) at least a majority in interest in each partnership hold interests in or are members of another person, other than an individual, and each partnership renders services pursuant to an agreement with that other person, or (iii) one partnership, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

(7) “Partnership” means an association of two or more persons to carry on as coowners a business for profit formed under Section 16202, predecessor law, or comparable law of another jurisdiction, and includes, for all purposes of the laws of this state, a registered limited liability partnership.

(8) “Partnership agreement” means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(9) “Partnership at will” means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(10) “Partnership interest” or “partner’s interest in the partnership” means all of a partner’s interests in the partnership, including the partner’s transferable interest and all management and other rights.

(11) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.



(12) “Professional limited liability partnership services” means the practice of public accountancy or the practice of law.

(13) “Property” means all property, real, personal, or mixed, tangible or intangible, or any interest therein.

(14) “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(15) “Statement” means a statement of partnership authority under Section 16303, a statement of denial under Section 16304, a statement of dissociation under Section 16704, a statement of dissolution under Section 16805, a statement of conversion under Section 16906, a statement of merger under Section 16915, or an amendment or cancellation of any of the foregoing.

(16) “Transfer” includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

16102. (a) A person knows a fact if the person has actual knowledge of it.

(b) A person has notice of a fact if any of the following apply:

(1) The person knows of it.

(2) The person has received a notification of it.

(3) The person has reason to know it exists from all of the facts known to the person at the time in question.

(4) Subdivision (f) of Section 16953 or subdivision (f) of Section 16959 as applicable.

(c) A person notifies or gives a notification to another by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows of it.

(d) A person receives a notification when either of the following apply:

(1) The person knows of the notification.

(2) The notification is duly delivered at the person’s place of business or at any other place held out by the person as a place for receiving communications.

(e) Except as otherwise provided in subdivision (f), a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual’s attention if the person had exercised reasonable diligence. The person exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual’s regular duties or the individual has reason to know of the transaction

and that the transaction would be materially affected by the information.

(f) A partner's knowledge, notice, or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to, or receipt of a notification by the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

16103. (a) Except as otherwise provided in subdivision (b), relations among the partners and between the partners and the partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

(b) The partnership agreement may not do any of the following:

(1) Vary the rights and duties under Section 16105 except to eliminate the duty to provide copies of statements to all of the partners.

(2) Unreasonably restrict the right of access to books and records under subdivision (b) of Section 16403, or the right to be furnished with information under subdivision (c) of Section 16403.

(3) Eliminate the duty of loyalty under subdivision (b) of Section 16404 or paragraph (3) of subdivision (b) of Section 16603, but, if not manifestly unreasonable, may do either of the following:

(A) The partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty.

(B) All of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

(4) Unreasonably reduce the duty of care under subdivision (c) of Section 16404 or paragraph (3) of subdivision (b) of Section 16603.

(5) Eliminate the obligation of good faith and fair dealing under subdivision (d) of Section 16404, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable.

(6) Vary the power to dissociate as a partner under subdivision (a) Section 16602, except to require the notice under paragraph (1) of Section 16601 to be in writing.

(7) Vary the right of a court to expel a partner in the events specified in paragraph (5) of Section 16601.

(8) Vary the requirement to wind up the partnership business in cases specified in paragraph (4), (5), or (6) of Section 16801.

(9) Restrict rights of third parties under this chapter.

(10) Vary the law applicable to a registered limited liability partnership under subdivision (b) of Section 16106.

16104. (a) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(b) If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in Section 3289 of the Civil Code.

16105. (a) A statement may be filed in the office of the Secretary of State. A certified copy of a statement that is filed in an office in another state may be filed in the office of the Secretary of State. Either filing has the effect provided in this chapter with respect to partnership property located in or transactions that occur in this state.

(b) A certified copy of a statement that has been filed in the office of the Secretary of State and recorded in the office for recording transfers of real property has the effect provided for recorded statements in this chapter. A recorded statement that is not a certified copy of a statement filed in the office of the Secretary of State does not have the effect provided for recorded statements in this chapter.

(c) A statement filed by a partnership shall be executed by at least two partners. Other statements shall be executed by a partner or other person authorized by this chapter. An individual who executes a statement as, or on behalf of, a partner or other person named as a partner in a statement shall personally declare under penalty of perjury that the contents of the statement are accurate.

(d) A person authorized by this chapter to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

(e) A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

(f) The Secretary of State may collect a fee for filing or providing a certified copy of a statement. The officer responsible for recording transfers of real property may collect a fee for recording a statement.

16106. (a) Except as otherwise provided in subdivision (b) of this section, or Section 16958, the law of the jurisdiction in which a partnership has its chief executive office governs relations among the partners and between the partners and the partnership.

(b) With respect to a registered limited liability partnership, the law of this state shall govern relations among the partners and between the partners and the partnership, and the liability of partners for obligations of the partnership.

16107. A partnership governed by this chapter is subject to any amendment to or repeal of this chapter.

16108. Except with respect to the provisions of this chapter specifically relating to registered limited liability partnerships and foreign limited liability partnerships, this chapter shall be applied

and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

16109. The rights and duties of surviving partners, the legal representatives of deceased partners, the creditors of such partners, and the creditors of the partnership created by or defined in this chapter shall be given full force and effect notwithstanding any inconsistent provisions of the Probate Code, but nothing in this chapter shall otherwise affect any provision of the Probate Code.

16110. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

16111. (a) Except as provided in Section 16955.5, before January 1, 1999, this chapter governs only a partnership formed (1) on or after the effective date of this chapter, unless that partnership is continuing the business of a dissolved partnership under Section 15041, or (2) before the effective date of this chapter if that partnership elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be governed by this chapter.

(b) On and after January 1, 1999, this chapter governs all partnerships.

(c) Except with respect to the provisions of this chapter specifically relating to registered limited liability partnerships and foreign limited liability partnerships, the provisions of this chapter relating to the liability of the partnership's partners to third parties apply to limit those partners' liability to a third party who had done business with the partnership within one year preceding the partnership's election to be governed by this chapter, only if the third party knows or has received a notification of the partnership's election to be governed by this chapter.

16112. This chapter does not affect an action or proceeding commenced or right accrued before this chapter takes effect.

16113. (a) The fee for filing a statement of partnership is seventy dollars (\$70).

(b) Unless another fee is specified by law or the law specifies that no fee is to be charged, the fee for filing any partnership statement pursuant to this chapter is thirty dollars (\$30).

(c) There is no fee for filing a statement of dissolution for the purposes of canceling a statement of partnership.

16114. Unless another fee is specified by law or the law specifies that no fee is to be charged, the fee for acceptance of copies of process against a surviving foreign partnership or limited partnership pursuant to subdivision (b) of Section 16906 is fifty dollars (\$50) for

each surviving foreign partnership or limited partnership general partnership upon whom service is sought.

Article 2. Nature of Partnership

16201. A partnership is an entity distinct from its partners.

16202. (a) Except as otherwise provided in subdivision (b), the association of two or more persons to carry on as coowners a business for profit forms a partnership, whether or not the persons intend to form a partnership.

(b) An association formed under a statute other than this chapter, a predecessor statute, or a comparable statute of another jurisdiction is not a partnership under this chapter.

(c) In determining whether a partnership is formed, the following rules apply:

(1) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not by itself establish a partnership, even if the coowners share profits made by the use of the property.

(2) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.

(3) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received for any of the following reasons:

(A) In payment of a debt by installments or otherwise.

(B) In payment for services as an independent contractor or of wages or other compensation to an employee.

(C) In payment of rent.

(D) In payment of an annuity or other retirement benefit to a beneficiary, representative, or designee of a deceased or retired partner.

(E) In payment of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral.

(F) In payment for the sale of the goodwill of a business or other property by installments or otherwise.

16203. Property acquired by a partnership is property of the partnership and not of the partners individually.

16204. (a) Property is partnership property if acquired in the name of either of the following:

(1) The partnership.

(2) One or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner

or of the existence of a partnership but without an indication of the name of the partnership.

(b) Property is acquired in the name of the partnership by a transfer to either of the following:

(1) The partnership in its name.

(2) One or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

(c) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(d) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

Article 3. Relations of Partners to Persons Dealing with Partnership

16301. Subject to the effect of a statement of partnership authority under Section 16303 both of the following apply:

(1) Each partner is an agent of the partnership for the purpose of its business. An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority.

(2) An act of a partner that is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.

16302. (a) Partnership property may be transferred as follows:

(1) Subject to the effect of a statement of partnership authority under Section 16303, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.

(2) Partnership property held in the name of one or more partners with an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.



(3) Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(b) A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under Section 16301 and either of the following applies:

(1) As to a subsequent transferee who gave value for property transferred under paragraph (1) or (2) of subdivision (a), proves that the subsequent transferee knew or had received a notification that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

(2) As to a transferee who gave value for property transferred under paragraph (3) of subdivision (a), proves that the transferee knew or had received a notification that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

(c) A partnership may not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under subdivision (b), from any earlier transferee of the property.

(d) If a person holds all of the partners' interests in the partnership, all of the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

16303. (a) A partnership may file a statement of partnership authority, which is subject to all of the following:

(1) The statement shall include all of the following:

(A) The name of the partnership.

(B) The street address of its chief executive office and of one office in this state, if there is one.

(C) The names and mailing addresses of all of the partners or of an agent appointed and maintained by the partnership for the purpose of subdivision (b).

(D) The names of the partners authorized to execute an instrument transferring real property held in the name of the partnership.

(2) The statement may specify the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and any other matter.

(b) If a statement of partnership authority names an agent, the agent shall maintain a list of the names and mailing addresses of all

of the partners and make it available to any person on request for good cause shown.

(c) If a filed statement of partnership authority is executed pursuant to subdivision (c) of Section 16105 and states the name of the partnership but does not contain all of the other information required by subdivision (a), the statement nevertheless operates with respect to a person not a partner as provided in subdivisions (d) and (e).

(d) A filed statement of partnership authority supplements the authority of a partner to enter into transactions on behalf of the partnership as follows:

(1) Except for transfers of real property, a grant of authority contained in a filed statement of partnership authority is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in another filed statement. A filed cancellation of a limitation on authority revives the previous grant of authority.

(2) A grant of authority to transfer real property held in the name of the partnership contained in a certified copy of a filed statement of partnership authority recorded in the office for recording transfers of that real property is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a certified copy of a filed statement containing a limitation on that authority is not then of record in the office for recording transfers of that real property. The recording in the office for recording transfers of that real property of a certified copy of a filed cancellation of a limitation on authority revives the previous grant of authority.

(e) A person not a partner is deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if a certified copy of the filed statement containing the limitation on authority is of record in the office for recording transfers of that real property.

(f) Except as otherwise provided in subdivisions (d) and (e) and Sections 16704 and 16805, a person not a partner is not deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.

16304. A partner or other person named as a partner in a filed statement of partnership authority or in a list maintained by an agent pursuant to subdivision (b) of Section 16303 may file a statement of denial stating the name of the partnership as filed with the Secretary of State, any identification number issued by the Secretary of State, and the fact that is being denied, that may include denial of a person's authority or status as a partner. A statement of denial is a limitation on authority as provided in subdivisions (d) and (e) of Section 16303.

16305. (a) A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or

omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

(b) If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership is liable for the loss.

16306. (a) Except as otherwise provided in subdivisions (b) and (c), all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

(b) A person admitted as a partner into an existing partnership is not personally liable for any partnership obligation incurred before the person's admission as a partner.

(c) Notwithstanding any other section of this chapter, and subject to subdivisions (d), (e), (f), and (h), a partner in a registered limited liability partnership is not liable or accountable, directly or indirectly, including by way of indemnification, contribution, assessment, or otherwise, for debts, obligations, or liabilities of or chargeable to the partnership or another partner in the partnership, whether arising in tort, contract, or otherwise, that are incurred, created, or assumed by the partnership while the partnership is a registered limited liability partnership, by reason of being a partner or acting in the conduct of the business or activities of the partnership.

(d) Notwithstanding subdivision (c), all or certain specified partners of a registered limited liability partnership, if the specified partners agree, may be liable in their capacity as partners for all or specified debts, obligations, or liabilities of the registered limited liability partnership if the partners possessing a majority of the interests of the partners in the current profits of the partnership, or a different vote as may be required in the partnership agreement, specifically agreed to the specified debts, obligations, or liabilities in writing, prior to the debt, obligation, or liability being incurred. That specific agreement may be modified or revoked if the partners possessing a majority of the interests of the partners in the current profits of the partnership, or a different vote as may be required in the partnership agreement, agree to the modification or revocation in writing; provided, however, that a modification or revocation shall not affect the liability of a partner for any debts, obligations, or liabilities of a registered limited liability partnership incurred, created, or assumed by the registered limited liability partnership prior to the modification or revocation.

(e) Nothing in subdivision (c) shall be construed to affect the liability of a partner of a registered limited liability partnership to third parties for that partner's tortious conduct.



(f) The limitation of liability in subdivision (c) shall not apply to claims based upon acts, errors, or omissions arising out of the rendering of professional limited liability partnership services of a registered limited liability partnership providing legal services unless that partnership has a currently effective certificate of registration issued by the State Bar.

(g) A partner in a registered limited liability partnership is not a proper party to a proceeding by or against a registered limited liability partnership in which personal liability for partnership debts, obligations, or liabilities is asserted against the partner, unless that partner is personally liable under subdivision (d) or (e).

(h) Nothing in this section shall affect or impair the ability of a partner to act as a guarantor or surety for, provide collateral for or otherwise be liable for, the debts, obligations, or liabilities of a registered limited liability partnership.

16307. (a) A partnership may sue and be sued in the name of the partnership.

(b) Except as otherwise provided in subdivision (g) of Section 16306, an action may be brought against the partnership and any or all of the partners in the same action or in separate actions.

(c) A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner.

(d) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless any of the following apply:

(1) A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part.

(2) The partnership is a debtor in bankruptcy.

(3) The partner has agreed that the creditor need not exhaust partnership assets.

(4) A court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers.

(5) Liability is imposed on the partner by law or contract independent of the existence of the partnership.

(e) This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under Section 16308.

16308. Except with respect to registered limited liability partnerships and foreign limited liability partnerships:

(a) If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner is liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.

(b) If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

(c) A person is not liable as a partner merely because the person is named by another in a statement of partnership authority.

(d) A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

(e) Except as otherwise provided in subdivisions (a) and (b), persons who are not partners as to each other are not liable as partners to other persons.

Article 4. Relations of Partners to Each Other and to Partnership

16401. (a) Each partner is deemed to have an account that is subject to both of the following:

(1) Credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits.

(2) Subject to Sections 16306 and 16957, charged with an amount equal to the money plus the value of any other property, net of the

amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.

(b) Each partner is entitled to an equal share of the partnership profits and, subject to Sections 16306 and 16957, is chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

(c) A partnership shall reimburse a partner for payments made and indemnify a partner for liabilities incurred by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property.

(d) A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

(e) A payment or advance made by a partner that gives rise to a partnership obligation under subdivision (c) or (d) constitutes a loan to the partnership that accrues interest from the date of the payment or advance.

(f) Each partner has equal rights in the management and conduct of the partnership business.

(g) A partner may use or possess partnership property only on behalf of the partnership.

(h) A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership.

(i) A person may become a partner only with the consent of all of the partners.

(j) A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement may be undertaken only with the consent of all of the partners.

(k) This section does not affect the obligations of a partnership to other persons under Section 16301.

16402. A partner has no right to receive, and may not be required to accept, a distribution in kind.

16403. (a) A partnership shall keep its books and records, if any, at its chief executive office.

(b) A partnership shall provide partners and their agents and attorneys access to its books and records. It shall provide former partners and their agents and attorneys access to books and records pertaining to the period during which they were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.



(c) Each partner and the partnership shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability, both of the following:

(1) Without demand, any information concerning the partnership's business and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or this chapter; and

(2) On demand, any other information concerning the partnership's business and affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

16404. (a) The fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in subdivisions (b) and (c).

(b) A partner's duty of loyalty to the partnership and the other partners includes all of the following:

(1) To account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property or information, including the appropriation of a partnership opportunity.

(2) To refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership.

(3) To refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.

(c) A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(d) A partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(e) A partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.

(f) A partner may lend money to and transact other business with the partnership, and as to each loan or transaction, the rights and obligations of the partner regarding performance or enforcement are the same as those of a person who is not a partner, subject to other applicable law.

(g) This section applies to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.



16405. (a) A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

(b) A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to do any of the following:

(1) Enforce the partner's rights under the partnership agreement.

(2) Enforce the partner's rights under this chapter, including all of the following:

(A) The partner's rights under Section 16401, 16403, or 16404.

(B) The partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to Section 16701 or 16701.5, or to enforce any other right under Article 6 (commencing with Section 16601) or 7 (commencing with Section 16701).

(C) The partner's right to compel a dissolution and winding up of the partnership business under Section 16801 or enforce any other right under Article 8 (commencing with Section 16801).

(3) Enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.

(c) The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

16406. (a) If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

(b) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

Article 5. Transferees and Creditors of Partner

16501. A partner is not a coowner of partnership property and has no interest in partnership property that can be transferred, either voluntarily or involuntarily.

16502. The only transferable interest of a partner in the partnership is the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. The interest is personal property.



16503. (a) A transfer, in whole or in part, of a partner's transferable interest in the partnership is permissible. However, a transfer does not do either of the following:

(1) By itself cause the partner's dissociation or a dissolution and winding up of the partnership business.

(2) As against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions, or to inspect or copy the partnership books or records.

(b) A transferee of a partner's transferable interest in the partnership has a right to all of the following:

(1) To receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

(2) To receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor.

(3) To seek under paragraph (6) of Section 16801 a judicial determination that it is equitable to wind up the partnership business.

(c) In a dissolution and winding up, a transferee is entitled to an account of partnership transactions only from the date of the latest account agreed to by all of the partners.

(d) Upon transfer, the transferor retains the rights and duties of a partner other than the interest in distributions transferred.

(e) A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer.

(f) A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

16504. (a) On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or that the circumstances of the case may require.

(b) A charging order constitutes a lien on the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(c) At any time before foreclosure, an interest charged may be redeemed in any of the following manners:

(1) By the judgment debtor.

(2) With property other than partnership property, by one or more of the other partners.

(3) With partnership property, by one or more of the other partners with the consent of all of the partners whose interests are not so charged.

(d) This chapter does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.

Article 6. Partner's Dissociation

16601. A partner is dissociated from a partnership upon the occurrence of any of the following events:

(1) The partnership's having notice of the partner's express will to withdraw as a partner or on a later date specified by the partner.

(2) An event agreed to in the partnership agreement as causing the partner's dissociation.

(3) The partner's expulsion pursuant to the partnership agreement.

(4) The partner's expulsion by the unanimous vote of the other partners if any of the following apply:

(A) It is unlawful to carry on the partnership business with that partner.

(B) There has been a transfer of all or substantially all of that partner's transferable interest in the partnership, other than a transfer for security purposes, or a court order charging the partner's interest, that has not been foreclosed.

(C) Within 90 days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business.

(D) A partnership, limited partnership, or limited liability company that is a partner has been dissolved and its business is being wound up.

(5) On application by the partnership or another partner, the partner's expulsion by judicial determination because of any of the following:

(A) The partner engaged in wrongful conduct that adversely and materially affected the partnership business.



(B) The partner willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under Section 16404.

(C) The partner engaged in conduct relating to the partnership business that makes it not reasonably practicable to carry on the business in partnership with the partner.

(6) The partner's act or failure to act in any of the following instances:

(A) By becoming a debtor in bankruptcy.

(B) By executing an assignment for the benefit of creditors.

(C) By seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of that partner or of all or substantially all of that partner's property.

(D) By failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated.

(7) In the case of a partner who is an individual, by any of the following:

(A) The partner's death.

(B) The appointment of a guardian or general conservator for the partner.

(C) A judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement.

(8) In the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor trustee.

(9) In the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor personal representative.

(10) Termination of a partner who is not an individual, partnership, corporation, trust, or estate.

16602. (a) A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to paragraph (1) of Section 16601.

(b) A partner's dissociation is wrongful only if any of the following apply:

(1) It is in breach of an express provision of the partnership agreement.

(2) In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking if any of the following apply:

(A) The partner withdraws by express will, unless the withdrawal follows within 90 days after another partner's dissociation by death or otherwise under paragraphs (6) to (10), inclusive, of Section 16601 or wrongful dissociation under this subdivision.

(B) The partner is expelled by judicial determination under paragraph (5) of Section 16601.

(C) The partner is dissociated by becoming a debtor in bankruptcy.

(D) In the case of a partner who is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

(c) A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the partner to the partnership or to the other partners.

16603. Upon a partner's dissociation, all of the following apply:

(1) The partner's right to participate in the management and conduct of the partnership business terminates.

(2) The partner's duty of loyalty under paragraph (3) of subdivision (b) of Section 16404 terminates.

(3) The partner's duty of loyalty under paragraphs (1) and (2) of subdivision (b) of Section 16404 and duty of care under subdivision (c) of Section 16404 continue only with regard to matters arising and events occurring before the partner's dissociation.

Article 7. Partner's Dissociation When Business Not Wound Up

16701. Except as provided in Section 16701.5, all of the following shall apply:

(a) If a partner is dissociated from a partnership, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subdivision (b).

(b) The buyout price of a dissociated partner's interest is the amount that would have been distributable to the dissociating partner under subdivision (b) of Section 16807 if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated partner and the partnership was wound up as of that date. Interest shall be paid from the date of dissociation to the date of payment.

(c) Damages for wrongful dissociation under subdivision (b) of Section 16602, and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, shall be offset



against the buyout price. Interest shall be paid from the date the amount owed becomes due to the date of payment.

(d) A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under Section 16702.

(e) If no agreement for the purchase of a dissociated partner's interest is reached within 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subdivision (c).

(f) If a deferred payment is authorized under subdivision (h), the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subdivision (c), stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

(g) The payment or tender required by subdivision (e) or (f) shall be accompanied by all of the following:

(1) A statement of partnership assets and liabilities as of the date of dissociation.

(2) The latest available partnership balance sheet and income statement, if any.

(3) An explanation of how the estimated amount of the payment was calculated.

(4) Written notice that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subdivision (c), or other terms of the obligation to purchase.

(h) A partner who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment shall be adequately secured and bear interest.

(i) A dissociated partner may maintain an action against the partnership, pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 16405, to determine the buyout price of that partner's interest, any offsets under subdivision (c), or other terms of the obligation to purchase. The action shall be commenced within 120 days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the

buyout price of the dissociated partner's interest, any offset due under subdivision (c), and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subdivision (h), the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subdivision (g).

16701.5. (a) Section 16701 shall not apply to any dissociation that occurs within 90 days prior to a dissolution under Section 16801.

(b) For dissociations occurring within 90 days prior to the dissolution, both of the following shall apply:

(1) All partners who dissociated within 90 days prior to the dissolution shall be treated as partners under Section 16807.

(2) Any damages for wrongful dissociation under subdivision (b) of Section 16602 and all other amounts owed by the dissociated partner to the partnership, whether or not presently due, shall be taken into account in determining the amount distributable to the dissociated partner under Section 16807.

16702. (a) For two years after a partner dissociates, the partnership, including a surviving partnership under Article 9 (commencing with Section 16901), is bound by an act of the dissociated partner that would have bound the partnership under Section 16301 before dissociation only if at the time of entering into the transaction all of the following apply to the other party:

(1) The other party reasonably believed that the dissociated partner was then a partner.

(2) The other party did not have notice of the partner's dissociation.

(3) The other party is not deemed to have had knowledge under subdivision (e) of Section 16303 or notice under subdivision (c) of Section 16704.

(b) A dissociated partner is liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under subdivision (a).

16703. (a) A partner's dissociation does not of itself discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner is not liable for a partnership obligation incurred after dissociation, except as otherwise provided in subdivision (b).

(b) Except for registered limited liability partnerships and foreign limited liability partnerships, a partner who dissociates is liable as a partner to the other party in a transaction entered into by the

partnership, or a surviving partnership under Article 9 (commencing with Section 16901), within two years after the partner's dissociation, only if at the time of entering into the transaction all of the following apply to the other party:

(1) The other party reasonably believed that the dissociated partner was then a partner.

(2) The other party did not have notice of the partner's dissociation.

(3) The other party is not deemed to have had knowledge under subdivision (e) of Section 16303 or notice under subdivision (c) of Section 16704.

(c) By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

(d) A dissociated partner is released from liability for a partnership obligation if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation.

16704. (a) A dissociated partner or the partnership may file a statement of dissociation stating the name of the partnership as filed with the Secretary of State, any identification number issued by the Secretary of State, and that the partner is dissociated from the partnership.

(b) A statement of dissociation is a limitation on the authority of a dissociated partner for the purposes of subdivisions (d) and (e) of Section 16303.

(c) For the purposes of paragraph (3) of subdivision (a) of Section 16702 and paragraph (3) of subdivision (b) of Section 16703, a person not a partner is deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

16705. Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.

Article 8. Winding Up Partnership Business

16801. A partnership is dissolved, and its business shall be wound up, only upon the occurrence of any of the following events:

(1) In a partnership at will, by the express will to dissolve and wind up the partnership business of at least half of the partners, including partners, other than wrongfully dissociating partners, who have dissociated within the preceding 90 days, and for which purpose a dissociation under paragraph (1) of Section 16601 constitutes an expression of that partner's will to dissolve and wind up the partnership business.

(2) In a partnership for a definite term or particular undertaking, when any of the following occurs:

(A) After the expiration of 90 days after a partner's dissociation by death or otherwise under paragraphs (6) to (10), inclusive, of Section 16601, or a partner's wrongful dissociation under subdivision (b) of Section 16602 unless before that time a majority in interest of the partners, including partners who have rightfully dissociated pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 16602, agree to continue the partnership.

(B) The express will of all of the partners to wind up the partnership business.

(C) The expiration of the term or the completion of the undertaking.

(3) An event agreed to in the partnership agreement resulting in the winding up of the partnership business.

(4) An event that makes it unlawful for all or substantially all of the business of the partnership to be continued, but a cure of illegality within 90 days after notice to the partnership of the event is effective retroactively to the date of the event for purposes of this section.

(5) On application by a partner, a judicial determination that any of the following apply:

(A) The economic purpose of the partnership is likely to be unreasonably frustrated.

(B) Another partner has engaged in conduct relating to the partnership business that makes it not reasonably practicable to carry on the business in partnership with that partner.

(C) It is not otherwise reasonably practicable to carry on the partnership business in conformity with the partnership agreement.

(6) On application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business after the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer.

16802. (a) Subject to subdivision (b), a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.

(b) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event both of the following apply:

(1) The partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the

partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred.

(2) The rights of a third party accruing under paragraph (1) of Section 16804 or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver may not be adversely affected.

16803. (a) After dissolution, a partner who has not dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative, or transferee, the court, for good cause shown, may order judicial supervision of the winding up.

(b) The legal representative of the last surviving partner may wind up a partnership's business.

(c) A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to Section 16807, settle disputes by mediation or arbitration, and perform other necessary acts.

16804. Subject to Section 16805, a partnership is bound by a partner's act after dissolution that is either of the following:

(1) Appropriate for winding up the partnership business.

(2) Would have bound the partnership under Section 16301 before dissolution, if the other party to the transaction did not have notice of the dissolution.

16805. (a) After dissolution, a partner who has not wrongfully dissociated may file a statement of dissolution stating the name of the partnership as filed with the Secretary of State, any identification number issued by the Secretary of State, and that the partnership has dissolved and is winding up its business.

(b) A statement of dissolution cancels a filed statement of partnership authority for the purposes of subdivision (d) of Section 16303 and is a limitation on authority for the purposes of subdivision (e) of Section 16303.

(c) For the purposes of Sections 16301 and 16804, a person not a partner is deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution 90 days after it is filed.

(d) After filing and, if appropriate, recording a statement of dissolution, a dissolved partnership may file and, if appropriate, record a statement of partnership authority that will operate with respect to a person not a partner as provided in subdivisions (d) and (e) of Section 16303 in any transaction, whether or not the transaction is appropriate for winding up the partnership business.

16806. (a) Except as otherwise provided in subdivision (b) and except for registered limited liability partnerships and foreign limited liability partnerships, after dissolution a partner is liable to the other partners for the partner's share of any partnership liability incurred under Section 16804.

(b) Except for registered limited liability partnerships and foreign limited liability partnerships, a partner who, with knowledge of the dissolution, incurs a partnership liability under paragraph (2) of Section 16804 by an act that is not appropriate for winding up the partnership business is liable to the partnership for any damage caused to the partnership arising from the liability.

16807. (a) In winding up a partnership's business, the assets of the partnership, including the contributions of the partners required by this section, shall be applied to discharge its obligations to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus shall be applied to pay in cash the net amount distributable to partners in accordance with their right to distributions under subdivision (b).

(b) Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, the profits and losses that result from the liquidation of the partnership assets shall be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. Except for registered limited liability partnerships and foreign limited liability partnerships, a partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account.

(c) If a partner fails to contribute the full amount that the partner is obligated to contribute under subdivision (b), all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to satisfy the partnership obligations for which they are liable under Section 16306. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations for which the partner is personally liable under Section 16306.

(d) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement and for which the partner is personally liable under Section 16306.

(e) The estate of a deceased partner is liable for the partner's obligation to contribute to the partnership.

(f) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a



partnership or a partner, may enforce a partner's obligation to contribute to the partnership.

Article 9. Conversions and Mergers

16901. In this article, the following terms have the following meanings:

(1) "Constituent other business entity" means any other business entity that is merged with or into one or more limited partnerships and includes a surviving other business entity.

(2) "Constituent partnership" means a partnership that is merged with or into one or more other partnerships or other business entities and includes a surviving partnership.

(3) "Disappearing other business entity" means a constituent other business entity that is not the surviving other business entity.

(4) "Disappearing partnership" means a constituent limited partnership that is not the surviving partnership.

(5) "Domestic" means organized under the laws of this state when used in relation to any partnership, other business entity, or person (other than an individual).

(6) "Foreign other business entity" means any other business entity formed under the laws of any state other than this state or under the laws of the United States or of a foreign country.

(7) "Foreign partnership" means a partnership formed under the laws of any state other than this state or under the laws of a foreign country.

(8) "General partner" means a partner in a partnership and a general partner in a limited partnership.

(9) "Limited liability company" means a limited liability company created under Title 2.5 (commencing with Section 17000), or comparable law of another jurisdiction.

(10) "Limited partner" means a limited partner in a limited partnership.

(11) "Limited partnership" means a limited partnership created under Chapter 3 (commencing with Section 15611), predecessor law, or comparable law of another jurisdiction.

(12) "Other business entity" means a limited partnership, limited liability company, or an unincorporated association (other than a nonprofit association), but excluding a partnership.

(13) "Partner" includes both a general partner and a limited partner.

(14) "Surviving other business entity" means an other business entity into which one or more partnerships are merged.

(15) "Surviving partnership" means a partnership into which one or more other partnerships or other business entities are merged.

16902. A partnership, other than a registered limited liability partnership, may be converted into a domestic limited partnership

or limited liability company or a foreign other business entity pursuant to this article if pursuant to the proposed conversion each of the partners of the converting partnership would receive a percentage interest in the profits and capital of the converted other business entity equal to the partner's percentage interest in profits and capital of the converting partnership as of the effective time of the conversion. Notwithstanding this section, the conversion of a partnership to a domestic limited partnership or limited liability company or foreign other business entity may be effected only if: (1) the law under which that domestic limited partnership or limited liability company or foreign other business entity will exist expressly permits the formation of that other entity pursuant to a conversion; and (2) the partnership complies with any and all other requirements of such other law that applies to conversion of the other business entity.

16903. (a) A partnership that desires to convert to a domestic limited partnership or limited liability company or foreign other business entity shall approve a plan of conversion. The plan of conversion shall state:

- (1) The terms and conditions of the conversions.
- (2) The place of the organization of the converted entity and of the converting partnership and the name of the converted entity after conversion, if different from that of the converting partnership.
- (3) The manner of converting the partnership interests of each of the partners into securities of or interests in the converted entity.
- (4) The provisions of the governing document for the converted entity, such as a limited partnership agreement or limited liability company articles of organization and operating agreement, to which the holders of interest in the converted entity are to be bound.
- (5) Any other details or provisions as are required by laws under which the converted entity is organized.
- (6) Any other details or provisions that are desired.

(b) The plan of conversion shall be approved by that number or percentage of partners required by the partnership agreement to approve a conversion of the partnership as set forth in the partnership agreement. If the partnership agreement fails to specify the required partner approval for a conversion of the partnership, then the plan of conversion shall be approved by that number or percentage of partners required by the partnership agreement to approve an amendment to the partnership agreement; provided, however, that if the conversion effects a change for which the partnership agreement requires a greater number or percentage of partners than that required to amend the partnership agreement, then the plan of conversion shall be approved by that greater number or percentage. If the partnership agreement fails to specify the vote required to amend the partnership agreement, then the plan of conversion shall be approved by all partners.



(c) If the partnership is converting into a limited partnership, then in addition to the approval of the partners as set forth in subdivision (b), the plan of conversion shall be approved by all partners who will become general partners of the converted limited partnership pursuant to the plan of conversion.

(d) All partners of the converting partnership except those that dissociate upon effectiveness of the conversion pursuant to subdivision (e) of Section 16904 shall be deemed parties to any partnership or operating or organic document for the converted entity adopted as part of the plan of conversion, regardless of whether that partner has executed the plan of conversion or the operating or partnership agreement or other organic document for the converted entity. Any adoption of a new partnership, operating agreement, or other organic document made pursuant to the foregoing sentence shall be effective at the effective time or date of the conversion.

(e) Notwithstanding its prior approval, a plan of conversion may be amended before the conversion takes effect if the amendment is approved by the partnership in the same manner, and by the same number or percentage of partners, as was required for approval of the original plan of conversion.

(f) The partners of a converting partnership may, at any time before the conversion is effective, in their discretion, abandon a conversion, without further approval by the partners, in the same manner, and by the same number or percentage of partners, as was required for approval of the original plan of conversion at any time before the conversion is effective, subject to the contractual rights of third parties.

(g) The converted entity shall keep the plan of conversion at: (1) the principal place of business of the converted entity, if the converted entity is a foreign other business entity; or (2) the office at which records are to be kept under Section 15614 if the converted entity is a domestic limited partnership, or at the office at which records are to be kept under Section 17057 if the converted entity is a domestic limited liability company. Upon the request of a partner of a converting partnership, the authorized person on behalf of the converted entity shall promptly deliver to the partner or the holder of interests or other securities, at the expense of the converted entity, a copy of the plan of conversion. A waiver by a partner of the rights provided in this subdivision shall be unenforceable.

16904. (a) A conversion into a domestic limited partnership or limited liability company shall become effective upon the earliest date that all of the following shall have occurred:

(1) The approval of the plan of conversion by the partners of the converting partnership as provided in Section 16903.

(2) The filing of all documents required by law to create the converted limited partnership or limited liability company, which



documents shall also contain a statement of conversion, if required under Section 16906.

(3) The effective date, if set forth in the plan of conversion, shall have occurred.

(b) A copy of the certificate of limited partnership or articles of organization complying with Section 16906, if applicable, duly certified by the Secretary of State, is conclusive evidence of the conversion of the partnership.

16905. (a) The conversion of a partnership into a foreign other business entity shall comply with Section 16902.

(b) If the partnership is converting into a foreign other business entity, then the conversion proceedings shall be in accordance with the laws of the state or place of organization of the foreign other business entity and the conversion shall become effective in accordance with that law.

(c) The Secretary of State is the agent for service of process in an action or proceeding against a converted foreign other business entity to enforce an obligation of a partnership that has converted to a foreign entity. Unless a statement of conversion has been filed to effect the conversion, the converted entity shall promptly notify the Secretary of State of the mailing address of its chief executive office and of any change of address. Upon receipt of process, the Secretary of State shall mail a copy of the process to the converted entity.

16906. (a) If the converting partnership has filed a statement of partnership authority under Section 16303 that is effective at the time of the conversion, then upon conversion to a domestic limited partnership or limited liability company, the certificate of limited partnership or articles of organization filed by the converted entity, as applicable, shall contain or be accompanied by a statement of conversion, in such form as may be prescribed by the Secretary of State. If the converting partnership has not filed a statement of partnership authority under Section 16303 that is effective at the time of the conversion, upon conversion to a domestic limited partnership or limited liability company, the converted entity may, but is not required to file, on or with its certificate of limited partnership or articles of organization, a statement of conversion. A statement of conversion shall be executed and acknowledged by two partners (unless a lesser number is provided in the partnership agreement) and shall set forth all of the following:

(1) The name and the Secretary of State's file number, if any, of the converting partnership.

(2) A statement that the principal terms of the plan of conversion were approved by a vote of the partners, which equaled or exceeded the vote required under Section 16903.

(b) A partnership converting to a foreign other business entity that has filed a statement of partnership authority under Section 16303 that is effective at the time of conversion may file a statement

of conversion with the Secretary of State. The statement of conversion shall contain the following:

(1) The names of the converting partnership and the converted entity.

(2) The street address of the converted entity's chief executive office and of an office in this state, if any.

(3) The form of organization of the converted entity.

(c) The filing with the Secretary of State of a certificate of limited partnership or articles of organization containing a statement of conversion as set forth in subdivision (a) or a statement of conversion filed pursuant to subdivision (b) shall have the effect of the filing of a cancellation by the converting partnership of any statement of partnership authority filed by it.

16907. (a) Whenever a partnership or other business entity having any real property in this state converts into a partnership or an other business entity pursuant to the laws of this state or of the state or place in which the other business entity was organized, and the laws of the state or place of organization (including this state) of the converting partnership or other business entity provide substantially that the conversion of a converting entity vests in the converted partnership or other business entity all the real property of the converting partnership or converting other business entity, the filing for record in the office of the county recorder of any county in this state in which any of the real property of the converting partnership or converting other business entity is located of either (1) a statement of conversion or a certificate of limited partnership or articles of organization complying with Section 16906, in such form as prescribed by the Secretary of State, certified by the Secretary of State, or (2) a copy of a statement of conversion, certificate of limited partnership, or articles of organization containing a statement of conversion or other certificate evidencing the creation of a foreign other business entity by conversion, certified by the Secretary of State or an authorized public official of the state or place pursuant to the laws of which the conversion is effected, shall evidence record ownership in the converted partnership or converted other business entity of all interest of the converting partnership or converting other business entity in and to the real property located in that county.

(b) A filed and, if appropriate, recorded statement of conversion, certificate of limited partnership, or articles of organization containing a statement of conversion or other certificate evidencing the creation of an other business entity by conversion executed and declared to be accurate pursuant to subdivision (c) of Section 16105, stating the name of the converting partnership or converting other business entity in whose name property was held before the conversion and the name of the converted entity, but not containing all of the other information required by Section 16906, operates with

respect to the entities named to the extent provided in subdivision (a).

(c) Recording of a statement of conversion, certificate of limited partnership, or articles of organization containing a statement of conversion, or other certificate evidencing the creation of another business entity by conversion, in accordance with paragraph (1) of Section 16902 shall create, in favor of bona fide purchasers or encumbrancers for value, a conclusive presumption that the conversion was validly completed.

16908. (a) A domestic limited partnership or limited liability company or a foreign other business entity may be converted to a domestic partnership pursuant to this article, but only if the converting entity is not prohibited by the laws under which it is organized to effect the conversion.

(b) An entity that desires to convert into a domestic partnership shall approve a plan of conversion or such instrument as is required to be approved to effect the conversion pursuant to the laws under which the entity is organized.

(c) The conversion of a domestic limited partnership or limited liability company or foreign other business entity shall be approved by the number or percentage of the partners, members, or holders of interest of the converting entity as is required by the law under which the entity is organized, or a greater or lesser percentage (subject to applicable laws) as set forth in the limited partnership agreement, articles of organization, or operating agreement or other governing document for the converting entity.

(d) The conversion by a domestic limited partnership or limited liability company or a foreign other business entity into a partnership shall be effective under this article at such time as the conversion is effective under the law under which the converting entity is organized.

16909. (a) An entity that converts into another entity pursuant to this article is for all purposes the same entity that existed before the conversion.

(b) When a conversion takes effect, all of the following apply:

(1) All the rights and property, whether real, personal, or mixed, of the converting entity remains vested in the converted entity.

(2) All debts, liabilities, and obligations of the converting entity continue as debts, liabilities, and obligations of the converted entity.

(3) All rights of creditors and liens upon the property of the converting entity shall be preserved unimpaired and remain enforceable against the converted entity to the same extent as against the converting entity as if the conversion had not occurred.

(4) Any action or proceeding pending by or against the converting entity may be continued against the converted entity as if the conversion had not occurred.

(c) A partner of a converting partnership is liable for:



(1) All obligations of the converting partnership for which the partner was personally liable before the conversion.

(2) All obligations of the converted entity incurred after the conversion takes effect, but those obligations may be satisfied only out of property of the entity if (A) the converted other business entity is a limited partnership and the partner becomes a limited partner or (B) the converted other business entity is a limited liability company and the partner becomes a member, unless the articles of organization or the operating agreement of the limited liability company provide otherwise.

(d) A partner of a partnership that converted from an other business entity is liable for any and all obligations of the converting other business entity for which the partner was personally liable before the conversion, but only to the extent the partner was liable for the obligation of the converting entity prior to the conversion.

(e) A partner of a converting partnership, who does not vote in favor of the conversion and does not agree to become a partner, member, or holder of interest of the converted other business entity shall have the right to dissociate from the partnership, as of the date the conversion takes effect. Within 10 days after the approval of the conversion by the partners as required under this article, the converting partnership shall send notice of the approval of the conversion to each partner that has not approved the conversion, accompanied by copies of Section 16701 and a brief description of the procedure to be followed under that section if the partner wishes to dissociate from the partnership. A partner that desires to dissociate from the converting partnership shall send written notice of such dissociation within 30 days after the date of the notice of the approval of the conversion. The converting partnership shall cause the partner's interest in the entity to be purchased under Section 16701. The converting partnership is bound under Section 16702 by an act of a general partner dissociated under this subdivision, and the partner is liable under Section 16703 for transactions entered into by the converted entity after the conversion takes effect. The dissociation of a partner in connection with a conversion pursuant to the terms of this subdivision shall not be deemed to be a wrongful dissociation under Section 16602.

16910. (a) The following entities may be merged pursuant to this article:

(1) Two or more partnerships into one partnership.

(2) One or more partnerships and one or more other business entities into one of those other business entities.

(3) One or more partnerships, other than a limited liability partnership, and one or more other business entities into one partnership.

(b) Notwithstanding subdivision (a), the merger of any number of partnerships with any number of other business entities may be

effected only if the other business entities that are organized in California are authorized by the laws under which they are organized to effect the merger, and (1) if a domestic partnership is the surviving partnership, the foreign other business entities are not prohibited by the laws under which they are organized from effecting that merger and (2) if a foreign partnership or foreign other business entity is the survivor of the merger, the laws of the jurisdiction under which the survivor is organized authorize that merger.

16911. (a) Each partnership and other business entity which desires to merge shall approve an agreement of merger. The agreement of merger shall be approved by the number or percentage of partners specified for merger in the partnership agreement of the constituent partnership. If the partnership agreement fails to specify the required partner approval for merger of the constituent partnership, then the agreement of merger shall be approved by that number or percentage of partners specified by the partnership agreement to approve an amendment to the partnership agreement; provided, however, that if the merger effects a change for which the partnership agreement requires a greater number or percentage of partners than that required to amend the partnership agreement, then the merger shall be approved by that greater number or percentage. If the partnership agreement contains no provision specifying the vote required to amend the partnership agreement, then the agreement of merger must be approved by all the partners. The agreement of merger shall be approved on behalf of each constituent other business entity by those persons required to approve the merger by the laws under which it is organized. Other persons may be parties to the agreement of merger. The agreement of merger shall state:

(1) The terms and conditions of the merger.

(2) The name and place of organization of the surviving partnership or surviving other business entity, and of each disappearing partnership and disappearing other business entity, and the agreement of merger may change the name of the surviving partnership, which new name may be the same as or similar to the name of a disappearing partnership.

(3) The manner of converting the partnership interests of each of the constituent partnerships into interests or other securities of the surviving partnership or surviving other business entity, and if partnership interests of any of the constituent partnerships are not to be converted solely into interest or other securities of the surviving partnership or surviving other business entity, the cash, property, rights, interests, or securities which the holders of the partnership interest are to receive in exchange for the partnership interests, which cash, property, rights, interests, or securities may be in addition to or in lieu of interests of other securities of the surviving



partnership or surviving other business entity, or that the partnership interests are canceled without consideration.

(4) Any other details or provisions as are required by the laws under which any constituent other business entity is organized.

(5) Any other details or provisions that are desired, including, without limitation, a provision for the treatment of fractional partnership interests.

(b) If the partnership is merging into a limited partnership, then in addition to the approval of the partners as set forth under subdivision (a), the agreement of merger must be approved by all partners who will become general partners of the surviving limited partnership upon the effectiveness of the merger.

(c) Notwithstanding its prior approval, an agreement of merger may be amended before the merger takes effect if the amendment is approved by the partners of each constituent partnership, in the same manner as required for approval of the original agreement of merger, and by each of the constituent other business entities.

(d) The partners of a constituent partnership may in their discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other constituent partnerships and constituent other business entities, if the abandonment is approved by the partners of the constituent partnership in the same manner as required for approval of the original agreement of merger.

(e) An agreement of merger approved in accordance with subdivision (a) may (1) effect any amendment to the partnership agreement of any domestic constituent partnership or (2) effect the adoption of a new partnership agreement for a domestic constituent partnership if it is the surviving partnership in the merger. Any amendment to a partnership agreement or adoption of a new partnership agreement made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger.

(f) The surviving partnership or surviving other business entity shall keep the agreement of merger at the principal place of business of the surviving entity if the surviving entity is a partnership or a foreign other business entity, at the office referred to in subdivision (a) of Section 15614 if the surviving entity is a domestic limited partnership or at the office referred to in Section 17057 if the surviving entity is a domestic limited liability company and, upon the request of a partner of a constituent partnership or a holder of interests or other securities of a constituent other business entity, the authorized person on behalf of the partnership or the surviving other business entity shall promptly deliver to the partner or the holder of interests or other securities, at the expense of the surviving partnership or surviving other business entity, a copy of the agreement of merger. A waiver by a partner or holder of interests or other securities of the rights provided in this subdivision shall be unenforceable.



16912. (a) Unless a future effective date or time is provided in a certificate of merger if a certificate of merger is required to be filed under Section 16915 in which event the merger shall be effective at the future effective date or time:

(1) A merger in which no domestic other business entity is a party to the merger shall be effective upon the later of any of the following:

(A) The approval of the agreement of merger by all parties to the merger as provided in Section 16911.

(B) The filing of all documents required by law to be filed as a condition to the effectiveness of the merger; or

(C) Any effective date specified in the agreement of merger; and

(2) A merger in which a domestic other business entity is a party to the merger shall be effective upon the filing of the certificate of merger in the office of the Secretary of State.

(b) For all mergers in which a certificate of merger is required to be filed under Section 16915, a copy of the certificate of merger duly certified by the Secretary of State is conclusive evidence of the merger of (A) the constituent partnerships (either by themselves or together with constituent other business entities) into the surviving other business entity, or (B) the constituent partnerships or the constituent other business entities, or both, into the surviving partnership.

16913. (a) The merger of any number of domestic partnerships with any number of foreign partnerships or foreign other business entities shall be required to comply with Section 16910.

(b) If the surviving entity is a domestic partnership or a domestic other business entity, the merger proceedings with respect to that partnership or other business entity and any domestic disappearing partnership shall conform to the provisions of this chapter governing the merger of domestic partnerships, but if the surviving entity is a foreign partnership or a foreign other business entity, then, subject to the requirements of subdivision (d), the merger proceedings may be in accordance with the laws of the state or place of organization of the surviving partnership or surviving other business entity.

(c) If the surviving entity is a domestic other business entity or is a domestic partnership in a merger in which a domestic other business entity is also a party, the certificate of merger shall be filed as provided in subdivision (b) of Section 16915, and thereupon, subject to subdivision (a) of Section 16912, the merger shall be effective as to each domestic constituent partnership and domestic constituent other business entity.

(d) If the surviving entity is a foreign partnership or foreign other business entity, the merger shall become effective in accordance with the law of the jurisdiction in which the surviving partnership or surviving other business entity is organized, but shall be effective as to any domestic disappearing partnership as of the time of

effectiveness in the foreign jurisdiction in accordance with Section 16912.

16914. (a) When a merger takes effect, all of the following apply:

(1) The separate existence of the disappearing partnerships and disappearing other business entities ceases and the surviving partnership or surviving other business entity shall succeed, without other transfer, act or deed, to all the rights and property whether real, personal, or mixed, of each of the disappearing partnerships and disappearing other business entities and shall be subject to all the debts and liabilities of each in the same manner as if the surviving partnership or surviving other business entity had itself incurred them.

(2) All rights of creditors and all liens upon the property of each of the constituent partnerships and constituent other business entities shall be preserved unimpaired and may be enforced against the surviving partnership or the surviving other business entity to the same extent as if the debt, liability or duty which gave rise to that lien had been incurred or contracted by it, provided that such liens upon the property of a disappearing partnership or disappearing other business entity shall be limited to the property affected thereby immediately prior to the time the merger is effective.

(3) Any action or proceeding pending by or against any disappearing partnership or disappearing other business entity may be prosecuted to judgment, which shall bind the surviving partnership or surviving other business entity, or the surviving partnership or surviving other business entity may be proceeded against or be substituted in the disappearing partnership's or the disappearing other business entity's place.

(b) The Secretary of State is the agent for service of process in an action or proceeding against a foreign surviving partnership or foreign surviving other business entity to enforce an obligation of a domestic partnership or domestic other business entity that is a party to a merger. Unless a certificate of merger has been filed to effect the merger, the surviving entity shall promptly notify the Secretary of State of the mailing address of its chief executive office and of any change of address. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign surviving partnership or foreign surviving other business entity.

(c) A partner of the surviving partnership or surviving limited partnership or a member of the surviving limited liability company is liable for all of the following:

(1) All obligations of a party to the merger for which the partner or member was personally liable before the merger.

(2) All other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the entity.

(3) All obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the entity if the partner is a limited partner or, unless expressly provided otherwise in the articles of organization, a member of a limited liability company.

(d) If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or surviving other business entity, the general partners of that party immediately before the effective date of the merger, to the extent such party was a partnership or a limited partnership, shall contribute the amount necessary to satisfy that party's obligations to the surviving entity, in the manner provided in Section 16807 or in the limited partnership act of the jurisdiction in which the party was formed, as the case may be, as if the merged party were dissolved.

(e) A partner of a domestic disappearing partnership, who does not vote in favor of the merger and does not agree to become a partner, member or holder of interest of the surviving partnership or surviving other business entity shall have the right to dissociate from the partnership, as of the date the merger takes effect. Within 10 days after the approval of the merger by the partners as required under this article, each domestic disappearing partnership shall send notice of the approval of the merger to each partner that has not approved the merger, accompanied by a copy of Section 16701 and a brief description of the procedure to be followed under that section if the partner wishes to dissociate from the partnership. A partner that desires to dissociate from a disappearing partnership shall send written notice of such dissociation within 30 days after the date of the notice of the approval of the merger. The disappearing partnership shall cause the partner's interest in the entity to be purchased under Section 16701. The surviving entity is bound under Section 16702 by an act of a general partner dissociated under this subdivision, and the partner is liable under Section 16703 for transactions entered into by the surviving entity after the merger takes effect. The disassociation of a partner in connection with a merger pursuant to the terms of this subdivision shall not be deemed a wrongful disassociation under Section 16602.

16915. (a) In a merger involving only partnerships, or in a merger to which a domestic partnership and an other business entity is a party but in which no other domestic other business entity is a party, the surviving partnership or surviving foreign other business entity may file with the Secretary of State a statement that one or more partnerships have merged into the surviving partnership or surviving other business entity. A statement of merger shall contain the following:

(1) The name of each partnership or other business entity that is a party to the merger.



(2) The name of the surviving entity into which the other partnerships or other business entities were merged.

(3) The street address of the surviving entity's chief executive office and of an office in this state, if any.

(4) Whether the surviving entity is a partnership or an other business entity, specifying the type of the entity.

(b) In a merger involving a domestic partnership in which a domestic other business entity is also a party, after approval of the merger by the constituent partnerships and any constituent other business entities, the constituent partnerships and constituent other business entities shall file a certificate of merger in the office of and on a form prescribed by, the Secretary of State. The certificate of merger shall be executed and acknowledged by each domestic constituent partnership by two partners (unless a lesser number is provided in the partnership agreement) and by each foreign constituent partnership by one or more partners, and by each constituent other business entity by those persons required to execute the certificate of merger by the laws under which the constituent other business entity is organized. The certificate of merger shall set forth all of the following:

(1) The names and the Secretary of State's file numbers, if any, of each of the constituent partnerships and constituent other business entities, separately identifying the disappearing partnerships and disappearing other business entities and the surviving partnership or surviving other business entity.

(2) If a vote of the partners was required under Section 16911, a statement that the principal terms of the agreement of merger were approved by a vote of the partners, which equaled or exceeded the vote required.

(3) If the surviving entity is a domestic partnership and not an other business entity, any change to the information set forth in any filed statement of partnership authority of the surviving partnership resulting from the merger, including any change in the name of the surviving partnership resulting from the merger. The filing of a certificate of merger setting forth any such changes to any filed statement of partnership authority of the surviving partnership shall have the effect of the filing of a certificate of amendment of the statement of partnership authority by the surviving partnership, and the surviving partnership need not file a certificate of amendment under Section 16015 to reflect those changes.

(4) The future effective date or time (which shall be a date or time certain not more than 90 days subsequent to the date of filing) of the merger, if the merger is not to be effective upon the filing of the certificate of merger with the office of the Secretary of State.

(5) If the surviving entity is an other business entity or a foreign partnership, the full name, type of entity, legal jurisdiction in which the entity was organized and by whose laws its internal affairs are

governed, and the address of the principal place of business of the entity.

(6) Any other information required to be stated in the certificate of merger by the laws under which each constituent other business entity is organized.

(c) A statement of merger or a certificate of merger, as is applicable under subdivision (a) or (b), shall have the effect of the filing of a cancellation for each disappearing partnership of any statement of partnership authority filed by it.

16916. (a) Whenever a domestic or foreign partnership or other business entity having any real property in this state merges with another partnership or other business entity pursuant to the laws of this state or of the state or place in which any constituent partnership or constituent other business entity was organized, and the laws of the state or place of organization (including this state) of any disappearing partnership or disappearing other business entity provide substantially that the making and filing of a statement of merger or certificate of merger vests in the surviving partnership or surviving other business entity all the real property of any disappearing partnership and disappearing other business entity, the filing for record in the office of the county record of any county in this state in which any of the real property of the disappearing partnership or disappearing other business entity is located of either (1) a certificate of merger certified by the Secretary of State, or other certificate prescribed by the Secretary of State, or (2) a copy of the statement of merger or certificate of merger, certified by the Secretary of State or an authorized public official of the state or place pursuant to the laws of which the merger is effected, shall evidence record ownership in the surviving partnership or surviving other business entity of all interest of such disappearing partnership or disappearing other business entity in and to the real property located in that county.

(b) A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to subdivision (c) of Section 16105, stating the name of a partnership or other business entity that is a party to the merger in whose name property was held before the merger and the name of the surviving entity, but not containing all of the other information required by Section 16915, operates with respect to the partnerships or other business entities named to the extent provided in subdivision (a).

(c) Recording of the certificate of merger in accordance with subdivision (a) shall create, in favor of bona fide purchasers or encumbrancers for value, a conclusive presumption that the merger was validly completed.

16917. This article is not exclusive. Partnerships, other than limited liability partnerships, may be converted or merged in any other manner provided by law.

Article 10. Limited Liability Partnerships

16951. For purposes of this chapter, the only types of limited liability partnerships that shall be recognized are a registered limited liability partnership and a foreign limited liability partnership, as defined in Section 16101. No registered limited liability partnership or foreign limited liability partnership may render professional limited liability partnership services in this state except through licensed persons.

16952. The name of a registered limited liability partnership shall contain the words “Registered Limited Liability Partnership” or “Limited Liability Partnership” or one of the abbreviations “L.L.P.,” “LLP,” “R.L.L.P.,” or “RLLP” as the last words or letters of its name.

16953. (a) To become a registered limited liability partnership, a partnership, other than a limited partnership, shall file with the Secretary of State a registration, executed by one or more partners authorized to execute a registration, stating (1) the name of the partnership; (2) the address of its principal office; (3) the name and address of the agent for service of process on the limited liability partnership in California; (4) a brief statement of the business in which the partnership engages; (5) any other matters that the partnership determines to include; and (6) that the partnership is registering as a registered limited liability partnership.

(b) The registration shall be accompanied by a fee of seventy dollars (\$70).

(c) The Secretary of State shall register as a registered limited liability partnership any partnership that submits a completed registration with the required fee.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier’s check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the date of the original filing.

(e) A partnership becomes a registered limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues as a registered limited liability partnership until a notice that it is no longer a registered limited liability partnership has been filed pursuant to subdivision (b) of Section

16954 or, if applicable, until it has been dissolved and finally wound up. The status of a partnership as a registered limited liability partnership and the liability of a partner of the registered limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in a registration under subdivision (a) or an amended registration or notice under Section 16954.

(f) The fact that a registration or amended registration pursuant to this section is on file with the Secretary of State is notice that the partnership is a registered limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 16956.

(h) A limited liability partnership providing professional limited liability partnership services in this state shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or other agency that prescribes the rules and regulations governing the particular profession in which the partnership proposes to engage, pursuant to the applicable provisions of the Business and Professions Code relating to that profession. No such state board, commission, or other agency shall disclose, unless compelled by a subpoena or other order of a court of competent jurisdiction, any information it receives in the course of evaluating the compliance of a limited liability partnership with applicable statutory and administrative registration or filing requirements, provided that nothing herein shall be construed to prevent a state board, commission, or other agency from disclosing the manner in which the limited liability partnership has complied with the requirements of Section 16956, or the compliance or noncompliance by the limited liability partnership with any other requirements of the state board, commission, or other agency.

16954. (a) The registration of a registered limited liability partnership may be amended by an amended registration executed by one or more partners authorized to execute an amended registration and filed with the Secretary of State, as soon as reasonably practical after any information set forth in the registration or previously filed amended registration becomes inaccurate or to add information to the registration or amended registration.

(b) If a registered limited liability partnership ceases to be a registered limited liability partnership, it shall file with the Secretary of State a notice, executed by one or more partners authorized to execute the notice, that it is no longer a registered limited liability partnership.



(c) An amendment pursuant to subdivision (a) and a notice pursuant to subdivision (b) shall each be accompanied by a fee of thirty dollars (\$30).

(d) The Secretary of State shall provide forms for an amended registration under subdivision (a) and a notice under subdivision (b).

16955. (a) A domestic partnership, other than a limited partnership, may convert to a registered limited liability by the vote of the partners possessing a majority of the interests of its partners in the current profits of the partnership or by a different vote as may be required in its partnership agreement.

(b) When such a conversion takes effect, all of the following apply:

(1) All property, real and personal, tangible and intangible, of the converting partnership remains vested in the converted registered limited liability partnership.

(2) All debts, obligations, liabilities, and penalties of the converting partnership continue as debts, obligations, liabilities, and penalties of the converted registered limited liability partnership.

(3) Any action, suit, or proceeding, civil or criminal, then pending by or against the converting partnership may be continued as if the conversion had not occurred.

(4) To the extent provided in the agreement of conversion and in this chapter, the partners of a partnership shall continue as partners in the converted registered limited liability partnership.

(5) A partnership that has been converted to a registered limited liability partnership pursuant to this chapter is the same person that existed prior to the conversion.

16955.5. A registered limited liability partnership or a partnership converting to a registered limited liability partnership may, by the vote of the partners possessing a majority of the interests of its partners in the current profits of the partnership or by a different vote as may be required in its partnership agreement, elect to be governed by the law in effect prior to adoption of this chapter or by this chapter. The election may be made from time to time and may be revoked by the vote of the partners possessing a majority of the interests of the partners in the current profits of the partnership or by a different vote as may be required in the partnership agreement. Any election not to be governed by this chapter and any revocation of that election shall be set forth in the registration filed by the registered limited liability partnership with the Secretary of State, in an amendment to the registration filed with the Secretary of State, or in an attachment to the registration or amendment. Any such election shall terminate and be of no further force or effect on or after January 1, 1998. After that date the registered limited liability partnership shall be governed by the law as specified in subdivisions (a) and (b) of Section 16111.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1998, deletes or extends that date.

16956. (a) At the time of registration pursuant to Section 16953, in the case of a registered limited liability partnership, and Section 16959, in the case of a foreign limited liability partnership, and at all times during which those partnerships shall transact intrastate business, every registered limited liability partnership and foreign limited liability partnership, as the case may be, shall be required to provide security for claims against it as follows:

(1) For claims based upon acts, errors, or omissions arising out of the practice of public accountancy, a registered limited liability partnership or foreign limited liability partnership providing accountancy services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars (\$100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of insurance is not required to exceed five million dollars (\$5,000,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars (\$100,000) multiplied by the number of licensed persons rendering professional services; however, the maximum amount of security is not required to exceed five million dollars (\$5,000,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(C) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(2) For claims based upon acts, errors, or omissions arising out of the practice of law, a registered limited liability partnership or foreign limited liability partnership providing legal services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim

of at least one hundred thousand dollars (\$100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of insurance is not required to exceed seven million five hundred thousand dollars (\$7,500,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars (\$100,000) multiplied by the number of licensed persons rendering professional services; however, the maximum amount of security is not required to exceed seven million five hundred thousand dollars (\$7,500,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(C) Each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by paragraph (2) of this subdivision and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B) of paragraph (2) of this subdivision, provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Withdrawal by a partner shall not affect the rights or obligations of such partner arising prior to withdrawal. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), and (C) of paragraph (1) of subdivision (a) or subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (C) of paragraph (1) of subdivision (a) shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:



TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE
WITH SECTION 16956(a)(1)(C) OF THE CALIFORNIA
CORPORATIONS CODE

The undersigned hereby confirms the following:

1. _____
Name of registered or foreign limited liability partnership
2. _____
Jurisdiction where partnership is organized
3. _____
Address of principal office
4. The registered or foreign limited liability partnership renders accountancy services and chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Sections 16956(a)(1)(C) and 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars (\$10,000,000).
5. _____
Title of authorized person executing this form
6. _____
Signature of authorized person executing this form

(c) Pursuant to subparagraph (C) of paragraph (1) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership rendering accountancy services may satisfy the requirements of this section by confirming that, as of the last day of its most recently completed fiscal year, it had a net worth equal to or exceeding ten million dollars (\$10,000,000). In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the



completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1) or (2) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

16957. (a) No distribution shall be made by a registered limited liability partnership if, after giving effect to the distribution:

(1) The registered limited liability partnership would not be able to pay its debts as they become due in the usual course of business.

(2) The registered limited liability partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the registered limited liability partnership were to be dissolved at the time of the distribution, to satisfy the preferential rights of other partners upon dissolution that are superior to the rights of the partners receiving the distribution.

(b) A cause of action with respect to an obligation to return a distribution is extinguished unless the action is brought within four years after the distribution is made.

(c) A distribution for purposes of this section means the transfer of money or property by a registered limited liability partnership to its partners without consideration.

16958. (a) (1) The laws of the jurisdiction under which a foreign limited liability partnership is organized shall govern its organization and internal affairs and the liability and authority of its partners, subject to compliance with Section 16956, and (2) a foreign limited liability partnership may not be denied registration by reason of any difference between those laws and the laws of this state.

(b) The name of a foreign limited liability partnership transacting intrastate business in this state shall contain the words "Registered

Limited Liability Partnership” or “Limited Liability Partnership” or one of the abbreviations “L.L.P.,” “LLP,” “R.L.L.P.,” or “RLLP,” or such other similar words or abbreviations as may be required or authorized by the laws of the jurisdiction of formation of the foreign limited liability partnership, as the last words or letters of its name.

16959. (a) (1) Before transacting intrastate business in this state, a foreign limited liability partnership shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or agency that prescribes the rules and regulations governing a particular profession in which the partnership proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code relating to the profession or applicable rules adopted by the governing board. A foreign limited liability partnership that transacts intrastate business in this state shall within 30 days after the effective date of the act enacting this section or the date on which the foreign limited liability partnership first transacts intrastate business in this state, whichever is later, register with the Secretary of State by submitting to the Secretary of State an application for registration as a foreign limited liability partnership, signed by a person with authority to do so under the laws of the jurisdiction of formation of the foreign limited liability partnership, stating the name of the partnership, the address of its principal office, the name and address of its agent for service of process in this state, a brief statement of the business in which the partnership engages, and any other matters that the partnership determines to include.

(2) Annexed to the application for registration shall be a certificate from an authorized public official of the foreign limited liability partnership’s jurisdiction of organization to the effect that the foreign limited liability partnership is in good standing in that jurisdiction, if the laws of that jurisdiction permit the issuance of those certificates, or, in the alternative, a statement by the foreign limited liability partnership that the laws of its jurisdiction of organization do not permit the issuance of those certificates.

(b) The registration shall be accompanied by a fee of seventy dollars (\$70).

(c) The Secretary of State shall register as a foreign limited liability partnership any partnership that submits a completed application for registration with the required fee.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier’s check or equivalent, the Secretary of State

shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

(e) A partnership becomes registered as a foreign limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues to be registered as a foreign limited liability partnership until a notice that it is no longer so registered as a limited liability partnership has been filed pursuant to Section 16960 or, if applicable, once it has been dissolved and finally wound up. The status of a partnership registered as a foreign limited liability partnership and the liability of a partner of that foreign limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in an application for registration under subdivision (a) or an amended registration or notice under Section 16960.

(f) The fact that a registration or amended registration pursuant to Section 16960 is on file with the Secretary of State is notice that the partnership is a foreign limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 16956.

(h) A foreign limited liability partnership transacting intrastate business in this state shall not maintain any action, suit, or proceeding in any court of this state until it has registered in this state pursuant to this section.

(i) Any foreign limited liability partnership that transacts intrastate business in this state without registration is subject to a penalty of twenty dollars (\$20) for each day that unauthorized intrastate business is transacted, up to a maximum of ten thousand dollars (\$10,000).

(j) A partner of a foreign limited liability partnership is not liable for the debts or obligations of the foreign limited liability partnership solely by reason of its having transacted business in this state without registration.

(k) A foreign limited liability partnership, transacting business in this state without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

(l) “Transact intrastate business” as used in this section means to repeatedly and successively provide professional limited liability

partnership services in this state, other than in interstate or foreign commerce.

(m) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business merely because its subsidiary or affiliate transacts intrastate business, or merely because of its status as any one or more of the following:

- (1) A shareholder of a domestic corporation.
- (2) A shareholder of a foreign corporation transacting intrastate business.
- (3) A limited partner of a foreign limited partnership transacting intrastate business.
- (4) A limited partner of a domestic limited partnership.
- (5) A member or manager of a foreign limited liability company transacting intrastate business.
- (6) A member or manager of a domestic limited liability company.

(n) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business within the meaning of this subdivision solely by reason of carrying on in this state any one or more of the following activities:

- (1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.
- (2) Holding meetings of its partners or carrying on any other activities concerning its internal affairs.
- (3) Maintaining bank accounts.
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability partnership's securities or maintaining trustees or depositories with respect to those securities.
- (5) Effecting sales through independent contractors.
- (6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where those orders require acceptance without this state before becoming binding contracts.
- (7) Creating or acquiring evidences of debt or mortgages, liens, or security interest in real or personal property.
- (8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.
- (9) Conducting an isolated transaction that is completed within 180 days and not in the course of a number of repeated transactions of a like nature.

(o) A person shall not be deemed to be transacting intrastate business in this state merely because of its status as a partner of a registered limited liability partnership or a foreign limited liability company whether or not registered to transact intrastate business in this state.

(p) The Attorney General may bring an action to restrain a foreign limited liability partnership from transacting intrastate business in this state in violation of this chapter.

(q) Nothing in this section is intended to, or shall, augment, diminish, or otherwise alter existing provisions of law, statutes, or court rules relating to services by a California public accountant or California attorney in another jurisdiction, or services by an out-of-state public accountant or out-of-state attorney in California.

16960. (a) The registration of a foreign limited partnership may be amended by an amended registration executed by one or more partners authorized to execute an amended registration and filed with the Secretary of State, as soon as reasonably practical after any information set forth in the registration or previously filed amended registration becomes inaccurate, to add information to the registration or amended registration or to withdraw its registration as a foreign limited liability partnership.

(b) If a foreign limited partnership ceases to be a limited liability partnership, it shall file with the Secretary of State a notice, executed by one or more partners authorized to execute the notice, that it is no longer a foreign limited liability partnership.

(c) A foreign limited liability partnership that is, but is no longer required to be, registered under Section 16959 may withdraw its registration by filing a notice with the Secretary of State, executed by one or more partners authorized to execute the notice.

(d) The Secretary of State shall provide forms for an amended registration under subdivision (a) and notices under subdivisions (b) and (c).

(e) The filing of amended registration forms pursuant to subdivision (a) and a notice pursuant to subdivision (b) or (c) shall each be accompanied by a fee of thirty dollars (\$30).

16961. The filing of a registration with the Secretary of State under Section 16953 or 16959 shall make it unnecessary for all purposes for the registered limited liability partnership or foreign limited liability partnership to make any of the filings referred to in Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code.

16962. (a) Each registered limited liability partnership whose principal office is not in this state and each foreign limited liability partnership registered under Section 16959 shall designate as its agent for service of process any natural person or a domestic or foreign corporation entitled to be designated as agent for the service of process pursuant to Section 1505.

(b) In addition to service that may be made as provided in Section 416.40 of the Code of Civil Procedure, delivery by hand of a copy of any process against a registered limited liability partnership or foreign limited liability partnership registered under Section 16959; (1) to any natural person designated by it as agent or (2), if a

corporate agent has been designated, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of that corporate agent shall constitute valid service on the registered limited liability partnership or foreign limited liability partnership.

(c) If an agent for the purpose of service of process has resigned and has not been replaced or if the agent designated cannot with reasonable diligence be found at the address designated for personally delivering the process, or if no agent has been designated, and it is shown by affidavit to the satisfaction of the court that process against a registered limited liability partnership or foreign limited liability partnership required to be registered under Section 16959 cannot be served with reasonable diligence upon the designated agent by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20, or subdivision (a) of Section 415.30 of the Code of Civil Procedure or upon the registered limited liability partnership or foreign limited liability partnership in the manner provided in Section 416.40 of the Code of Civil Procedure, the court may make an order that the service be made upon the registered limited liability partnership or foreign limited liability partnership by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant to deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing that service. If the court makes that order, the Secretary of State who receives the process, or the person employed in the Secretary of State's office in the capacity of assistant or deputy who receives the process, is required to accept such process. A fee in the amount of fifty dollars (\$50) shall be paid to the Secretary of State for the use of the state upon receipt of the process. Service in this manner shall be deemed complete on the 10th day after delivery of the process to the Secretary of State.

(d) Upon the receipt of the copy of process and the fee therefor, the Secretary of State shall give notice of the service of process to the registered limited liability partnership or foreign limited liability partnership registered under Section 16959 at its principal executive office, by forwarding to that office, by registered mail with request for return receipt, the copy of the process or, if the records of the Secretary of State do not disclose an address for that principal executive office, by forwarding the copy in the same manner to the last designated agent for service of process who has not resigned. If the agent for service of process has resigned and has not been replaced and the records of the Secretary of State do not disclose an address for its principal executive office, no action need be taken by the Secretary of State.

(e) The Secretary of State shall keep a record of all process served upon the Secretary of State under this section and shall record therein the time of service and the Secretary of State's action with

reference thereto. The certificate of the Secretary of State, under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the registered limited liability partnership or foreign limited liability partnership, and the forwarding of the process pursuant to this section shall be competent and prima facie evidence of the matters stated therein.

(f) The court order pursuant to subdivision (c) that service of process be made upon the registered limited liability partnership or foreign limited liability partnership by delivery to the Secretary of State may be a court order of a court of another state, or of any federal court, if the suit, action, or proceeding has been filed in that court.

SEC. 3. Section 3940 of the Public Resources Code is amended to read:

3940. A mining partnership exists when two or more persons who own or acquire a mining claim for the purpose of working it and extracting the mineral therefrom actually engage in working the claim. To the extent not inconsistent with this chapter, mining partnerships shall be governed in the same manner as other general partnerships would be governed pursuant to Section 16111 of the Corporations Code, by the Uniform Partnership Act (Chapter 1 (commencing with Section 15001) of Title 2 of the Corporations Code), or the Uniform Partnership Act of 1994 (Chapter 5 (commencing with Section 16100) of Title 2 of the Corporations Code).

SEC. 4. Section 6829 of the Revenue and Taxation Code is amended to read:

6829. (a) Notwithstanding Section 16306, 16307, 17101, 17158, 17355, 17450, or 17456 of the Corporations Code, upon termination, dissolution, or abandonment of a partnership, a registered or foreign limited liability partnership or a domestic or foreign corporate or limited liability company business, any officer, member, manager, partner, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax, or who is under a duty to act for the corporation, partnership, limited liability partnership, or limited liability company in complying with any requirement of this part, shall be personally liable for any unpaid taxes and interest and penalties on those taxes, if the officer, member, manager, or other person willfully fails to pay or to cause to be paid any taxes due from the corporation, partnership, limited liability partnership, or limited liability company pursuant to this part.

(b) The officer, member, manager, partner, or other person shall be liable only for taxes that became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation, partnership, limited liability partnership, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.



(c) Personal liability may be imposed pursuant to this section, only if the board can establish that the corporation, partnership, limited liability partnership, or limited liability company had included tax reimbursement in the selling price of, or added tax reimbursement to the selling price of, tangible personal property sold in the conduct of its business, or when it can be established that the corporation, partnership, limited liability partnership, or limited liability company consumed tangible personal property and failed to pay the tax to the seller or has included use tax on the billing and collected the use tax or has issued a receipt for the use tax and failed to report and pay use tax.

(d) For purposes of this section “willfully fails to pay or to cause to be paid” means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e) The sum due for the liability under this section may be collected by determination and collection in the manner provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701).

SEC. 4.5. Section 6831 is added to the Revenue and Taxation Code, to read:

6831. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for a seller’s permit, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 5. Section 9032 is added to the Revenue and Taxation Code, to read:

9032. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 6. Section 23097 of the Revenue and Taxation Code is amended to read:

23097. (a) For each taxable year beginning on or after January 1, 1995, every limited liability partnership doing business in this state (as defined in Section 23101) and required to file a return under Section 18633 shall pay annually to the Franchise Tax Board a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in paragraph (1) of subdivision (d) of Section 23153 for the taxable year.

(b) In addition to any limited liability partnership that is doing business in this state and therefore is subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1995, every registered limited liability partnership that has registered with the Secretary of State pursuant to Section 15049 or

16953 of the Corporations Code and every foreign limited liability partnership that has registered with the Secretary of State pursuant to Section 15055 or 16959 of the Corporations Code shall pay annually the tax prescribed in subdivision (a). The tax shall be paid for each taxable year, or part thereof, until any of the following occurs:

(1) A notice of cessation is filed with the Secretary of State pursuant to subdivision (b) of Section 15050, subdivision (b) of Section 16954, subdivision (b) of Section 15056, or subdivision (b) of Section 16960, of the Corporations Code.

(2) A foreign limited liability partnership withdraws its registration pursuant to subdivision (a) of Section 15056, or subdivision (a) of Section 16960, of the Corporations Code.

(3) The registered limited liability partnership or foreign limited liability partnership has been dissolved and finally wound up.

(c) The tax assessed under this section shall be due and payable on the date the return is required to be filed under Section 18633.

SEC. 7. Section 30353 is added to the Revenue and Taxation Code, to read:

30353. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 8. Section 32388 is added to the Revenue and Taxation Code, to read:

32388. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 9. Section 38576 is added to the Revenue and Taxation Code, to read:

38576. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of registration, the timber owner furnishes the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 10. Article 4 (commencing with Section 40166) is added to Chapter 6 of Part 19 of Division 2 of the Revenue and Taxation Code, to read:

Article 4. Miscellaneous

40166. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of

application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 11. Article 4 (commencing with Section 41127.5) is added to Chapter 6 of Part 20 of Division 2 of the Revenue and Taxation Code, to read:

Article 4. Miscellaneous

41127.5. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 12. Section 43447 is added to the Revenue and Taxation Code, to read:

43447. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 13. Section 45608 is added to the Revenue and Taxation Code, to read:

45608. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 14. Section 46463 is added to the Revenue and Taxation Code, to read:

46463. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 15. Section 50138.5 is added to the Revenue and Taxation Code, to read:

50138.5. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written



partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 16. Section 55208 is added to the Revenue and Taxation Code, to read:

55208. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 17. Section 60492 is added to the Revenue and Taxation Code, to read:

60492. The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for or issuance of a permit, license, or registration number under this part, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

SEC. 18. Section 1.2 of this act shall become operative on January 1, 1999.

